

EXHIBIT 14

REDACTED

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA, ASHEVILLE DIVISION**

EXELA PHARMA SCIENCES, LLC,

Plaintiff,

v.

SANDOZ, INC.,

Defendant.

Civil Action No.

DECLARATION OF MARK HARTMAN

I, Mark Hartman, state the following is true to the best of my knowledge, information, and belief:

1. My name is Mark Hartman. I am over the age of twenty-one (21) years, and I am competent to testify to the matters stated herein.
2. I am currently employed as the Chief Commercial Officer for Exela Pharma Sciences LLC (“Exela”). I have worked at Exela in that role since April 2015.
3. In my capacity as the Chief Commercial Officer, I am familiar with Exela’s commercial and marketing operations and strategies. This declaration is based on my personal knowledge and matters that I have investigated within Exela.
4. Exela invested significant effort in preparing for the launch of its L-Cysteine product ELCYST™, including generating a production forecast for meeting the market needs for the product and a market forecast for ELCYST™ based on market data from IQVIA, a healthcare analytics firm. The total L-Cysteine injection market, as estimated from the IQVIA database, is about 1,100,000 vials/year. The Exela marketing team also put together the pricing information,

safety datasheets, and package inserts to be submitted to pricing database companies that customers reference for reimbursement.

5. Towards the end of May 2019, I sent out communications to wholesalers regarding availability of ELCYST™, stocking suggestion, and pricing.

6. On May 21, 2019, Mr. Vaibhav Vaishnav of Sandoz's business development team sent a meeting invite via email to schedule a telephone call regarding Exela's recently approved products entitled "Potential Collaboration Opportunities – Sandoz / Exela," which I accepted. I had not had any contact with Mr. Vaishnav or anyone else at Sandoz prior to this meeting invitation.

7. On May 29, 2019, I sent our new product set up information to all national pricing database companies announcing the approval of ELCYST™ and providing the product and pricing information required by them to establish ELCYST™ in their pricing databases for customers to access to ensure reimbursement for the drug was established prior to shipping product to customers.

8. On May 30, 2019, I sent out the ELCYST™ product launch packet including an initial stocking incentive offer to all major wholesalers in the US soliciting their initial stocking orders for ELCYST™.

9. On May 31, 2019 at 10:30am Eastern time, I forwarded to the Exela sales team the packet of information on the ELCYST™ launch in preparation for our conference call scheduled for Monday, June 3, 2019 to go through the approved marketing materials and pricing information on ELCYST™. Included in this launch packet was a letter to healthcare providers announcing the approval and immediate launch of ELCYST™ as the only FDA Approved cysteine hydrochloride injection on the market in the United States. This letter also noted that

ELCYS™ contains no more than 120 ppb of aluminum. This letter was part of the approved marketing materials that each salesperson was to send to its customers and prospective customers announcing the launch of ELCYS™.

10. On that same day, May 31, 2019, Exela issued a press release on the ELCYS™ launch that stated that ELCYS™ is “available direct from Exela immediately and will be in wholesalers in early June.” As I reported to my sales team at that time, Exela had produced and made ready for this launch over 100,000 vials of ELCYS™, and we were constantly producing more. With the total market demand for L-Cysteine being about 90,000 vials per month, we were prepared to supply the entire market demand for L-Cysteine product immediately.

11. On May 31, 2019, I had a telephone call with Mr. Vaibhav Vaishnav and Ms. Shubhra Mehrotra of Sandoz’s business development team along with Dr. Phanesh Koneru, CEO of Exela. I had not had any contact with Ms. Mehrotra prior to this call. The Sandoz representatives wanted to talk about Exela’s “recent approvals” and whether Exela was set up to do marketing for those products. Exela had received FDA approval for only two products in April 2019, one of which was ELCYS™. During the call, Sandoz provided an overview of Sandoz’s U.S. operations and explained that they were looking for products to in-license. I gave a brief overview of Exela and its product line. I explained that Exela had its own sales and marketing team and that Exela was not interested in licensing its products at this time.

12. Beginning approximately June 3, 2019, Exela began sending out communications directly to customers such as hospitals and infusion centers regarding FDA approval and availability of ELCYS™. Around the same time, Exela also launched its Early Adapter Program, which offered a reduced price for ELCYS™ in exchange for a customer’s commitment to purchase L-Cysteine product from Exela. In the first wave, nineteen customers signed Letters

of Commitment to participate in the Exela Early Adapter Program, plus another twelve customers had signed up for Tier 1 pricing via the Premier ProvideGx program. During the second wave, only two additional customers signed up for the Exela Early Adapter Program.

13. On June 20, 2019, Exela began shipping ELCYST™ to wholesalers.

14. As part of its sales efforts, Exela collects data and observations from its sales team in various forms. The Exela sales team generally uses the program ZENDESK to record notes on calls with customers. Key Account Managers (KAMs) will also report to me with comments from customers, either in person or in emails. The Exela Regional Managers (RMs) also collect customer feedback and data from KAMs and they send that information to me to be compiled into a master summary. I have also communicated directly with customers regarding the sale of ELCYST™ and Sandoz's continued presence in the market. I collected the observations below via these various methods.

15. Exela's sales teams have observed and reported to me several instances of health systems buying or committing to buy several months, and even up to a year's supply of Sandoz's unapproved product, many of these customers having made bulk purchases after the ELCYST™ launch.

16. As reported to me by my team, based on their observations (at my direction) of historical trends, watching what is kept at wholesalers, and conversations with hospitals, multiple customers who normally did not maintain large stocks of L-Cysteine have recently purchased unusually large supplies from Sandoz. For example, [REDACTED] informed Exela that it had purchased a full year's worth of Sandoz's product in July 2019 and, as of October 2019, was still working through that supply and declining to purchase from Exela. Similarly, at least as of early October 2019, [REDACTED]

[REDACTED]

were still purchasing Sandoz's product and declined to purchase from Exela.

17. My team has observed and reported to me similar patterns with customers across the country. Our sales team indicated to me that [REDACTED] [REDACTED] informed us that they had purchased "a large quantity of Sandoz product in bulk" and that they do not intend to convert to ELCYST™. [REDACTED] had purchased a full year's supply of Sandoz's product after our ELCYST™ launch, and as of October 2019 was still working through that inventory and declining to purchase from Exela. Similarly, [REDACTED] [REDACTED] [REDACTED] purchased four months of Sandoz's product at one time, and as of October 2019 were still working through that inventory and declining to purchase from Exela.

18. My sales team also learned from customers and reported to me that Sandoz was informing them that it would continue to supply its product for the foreseeable future, it was not planning to leave the market, and that it had sufficient quantities of product to last at least through the end of 2019.

19. In addition, multiple customers who had signed up to join the first wave of Exela's Early Adapter Program later reneged on their letters of commitment to purchase agreed amounts of product from Exela, and instead purchased from Sandoz. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

20. While I do not have access to Sandoz's exact pricing data, based on information I have learned from Group Purchasing Organizations (GPOs) and information my sales team has reported to me from the field, my best estimate is that customers have been able to purchase Sandoz's unapproved product anywhere from one-half to one-fourth of the price of Exela's product.

21. As reported to me, [REDACTED] the major distributors' (Amerisource, McKesson, and Cardinal) websites that show those distributors have so much of Sandoz's product on hand that the distributors are not placing limits on the quantity of Sandoz product that customers can purchase at any one time.

22. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] as of October 16, 2019, [REDACTED] had a six-week supply of Sandoz's product in stock.

23. Based on the information Exela's sales representatives have collected and reported to me, the situation is similar for other major distributors as well. While Sandoz has announced that it has stopped selling product as of October 8, 2019, these distributors have made no such announcement and, as reported to me, have continued to sell the Sandoz product.

24. Sandoz's continued sale and distribution of its unapproved product has caused and is causing Exela to lose sales. As an example, [REDACTED] [REDACTED] received a shipment of 100 cartons (1,000 vials) of ELCYS on June 20, 2019, but as of September 24, 2019 they had made zero sales. During October, [REDACTED] [REDACTED] only sold 23 cartons (230 vials) of ELCYSTTM, with 17 (170 vials) of those coming in on October 25, 2019, once they had exhausted their Sandoz inventory.

25. As of the end of September (the last month for which complete sales data is available), Exela holds approximately 19% of the L-Cysteine market share with Sandoz retaining the remaining approximately 81% market share based on Exela's best calculation. Of Exela's market share, [REDACTED] comes from a single customer [REDACTED] [REDACTED], effectively barring it from purchasing Sandoz's unapproved product. Without this single customer, which Sandoz is essentially barred from, Exela's share position would only be [REDACTED] of the total market three months after launch.

26. Exela's sales force has received and reported to me comments from multiple customers who declined to purchase Exela's product because they already have a substantial inventory of the Sandoz product. In addition, there are numerous customers who had already signed up to purchase ELCYSTTM as part of Exela's Early Adapter Program, but subsequently reneged on their letters of commitment to purchase the agreed amounts of product from Exela, instead purchasing Sandoz's unapproved product.

27. My team has reported to me that some customers have also expressed the (mistaken) belief that Exela must be making up or exaggerating the serious toxicity issues with aluminum problems to sell products. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

28. As reported to me by my sales team, the clinical pharmacist [REDACTED] was concerned about the aluminum toxicity issue and reached out to their Sandoz sales representative regarding the aluminum content of the Sandoz product only to be told that the sales representative was “unaware” of its aluminum content.

29. Exela’s sales team has also reported to me that Sandoz has informed customers, [REDACTED], that they were going to file an abbreviated new drug application (ANDA) to market their own generic version of L-Cysteine, suggesting Sandoz might try to maintain its L-Cysteine market domination perpetually.

30. In another instance, on August 14, 2019, it was reported to me that the Sandoz representative informed [REDACTED] that Sandoz had no plans of pulling out of the market and that they were waiting on FDA to get approval to continue selling in the US.

31. Sandoz’s continued presence in the market is harming Exela’s relationships with its current customers, both for other Exela products and potential customers for ELCYS™, and Exela’s opportunities to build goodwill in the marketplace due to its safe, FDA-approved product. For example, Exela’s sales team received and reported to me comments from customers that Exela was just saying that Sandoz would be coming off the market to create panic (“hysteria,” in the words of one customer) so that we could charge more for our product.

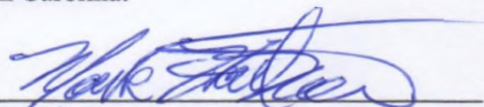
32. The damage to Exela’s credibility and reputation is especially harmful because of Exela’s size and age. Exela is a relatively small company in the market, offering a portfolio of

ten drugs (seventeen SKUs) compared to the hundreds of drugs in the portfolios of companies such as Sandoz. In addition, Exela is a relatively new company that does not have the advantage of decades-long customer relationships like the more established players in the market.

33. The loss of revenue due to Sandoz's sales has also created long-term financial harm for Exela. The loss of ELCYS™ revenue has forced Exela to borrow [REDACTED]. The loss of revenue has also forced Exela to delay regulatory filings for approval of several drugs currently in its development pipeline, which in turn delays the public's access to the benefits of these new drugs. It also financially harms Exela by delaying its ability to commercialize those products.

I declare under penalty of perjury of the laws of the United States of America that the foregoing is true and correct.

Executed on 5th day of November, 2019, in Lenoir, North Carolina.

/s/ 
Mark Hartman